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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/775,389

02/01/2001

Ram Benz

7752

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7590

10/09/2007

EXAMINER

WOO, STELLA L

ART UNIT

PAPER NUMBER

2614

MAIL DATE

DELIVERY MODE

10/09/2007

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

Application No.

09/775,389

Applicant(s)

BENZ, RAM

Examiner

Stella L. Woo

Art Unit

2614

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 05 July 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-16, 18-20 and 22-24 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-16, 18-20, 22-24 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-10, 12, 14, 22 are rejected under 35 U.S.C. 102(b) as being anticipated by Young (US 5,606,143) for the same reasons given in the last Office action and repeated below.

Regarding claims 1, 8-9, 12, 14, Young discloses a hand-held device (portable apparatus 10) comprising:

an elongated case (elongated casing 11;

a first audio signal input (music data from ROM 121 or integrated circuit card 12; col. 6, lines 28-32);

a second audio signal input (microphone unit 13; col. 5, lines 31-38);

means for mixing (mixer 72; col. 7, lines 55-57);

a first audio output (transmitter 74 transmits signals from mixer 72 to an external speaker unit; col. 7, lines 57-64).

Regarding claims 2-4, 10, Young provides for an audio jack (earphone jack 115; col. 8, lines 5-11).

Regarding claims 5-7, note Figure 2.

Regarding claim 22, note DSP chip (col. 6, lines 52).

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3. Claims 1-4, 9-10, 12, and 24 are rejected under 35 U.S.C. 102(b) as being anticipated by JP 63-221800 A (hereinafter "Ishikawa").

Regarding claim 1, 9, 12, Ishikawa discloses a hand-held device (Figures 1, 3 and 4) comprising:

- an elongated case (see Figures 3 and 4);
- a first audio signal input (external sound input terminal 18);
- a second audio signal input (microphone 11);
- means for mixing signals (adder 14); and
- a first audio output (output terminal 19 or 20).

Regarding claim 2, note stereo jack 6 or 7 (Figures 4 and 6).

Regarding claims 3-4, 10, note first or second audio output (output terminal 20 connects to an earphone or headphone or the like; Abstract).

Regarding claim 24, the external sound input terminal 18 is configured to accept the audio signal from an external equipment such as a portable tape recorder or the like (Abstract).

### ***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 11, 13, and 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ishikawa in view of Takao (US 5,349,480).

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Ishikawa differs from claims 11, 13 and 23 in that it does not teach a volume adjustment or vocal suppression. However, Takao, from the same field of endeavor, teaches the use of a volume adjustment (volume dial 18c) which adjusts the signal from the microphone (col. 5, lines 18-20) in a portable audio device such that it would have been obvious to an artisan of ordinary skill to incorporate such means for adjusting the voice input volume, as taught by Takao, within the device of Ishikawa so that a user can manually control the volume of audio input via the microphone, allowing for the volume balance desired by the user.

Regarding claims 13, 23, Takao teaches suppressing a voice from recorded material via a element 90b (col. 15, lines 20-32) such that it would have been obvious to an artisan of ordinary skill to incorporate such recorded voice suppression, as taught by Takao, within the device of Ishikawa in order allow the user the option of singing with or without the assistance of the recorded voice.

6. Claims 15-16, 18-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Young in view of Scrivens et al. (US 6,728,518 B1, hereinafter "Scrivens") for the same reasons applied to claims 15-21 in the last Office action.

Young differs from claims 15-16, 18-20 in that it does not specify a fastening means. However, since Young describes his device as being portable, and Scrivens teaches the desirability of securing a portable audio device to a user by means of various fastening means (Velcro, clip, chains, etc.; col. 3, lines 13-20), it would have been obvious to an artisan of ordinary skill to incorporate such fastening means, as

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taught by Scrivens, within the portable device of Young in order to allow for convenient transport by the user.

***Response to Arguments***

7. Applicant's arguments filed July 5, 2007 have been fully considered but they are not persuasive. Applicant argues that "Wilson does not include 'a first audio input' within the meaning of the pending claims." However, Wilson was not applied in any of the rejections in the last or present Office action.

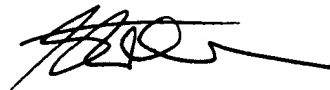
8. Applicant's arguments with respect to claims 13, 23 and 24 have been considered but are moot in view of the new grounds of rejection.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stella L. Woo whose telephone number is (571) 272-7512. The examiner can normally be reached on Monday-Friday, 8:00 a.m. to 4:30 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Curtis Kuntz can be reached on (571) 272-7499. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

A handwritten signature in black ink, appearing to read 'Stella L. Woo', with a stylized flourish at the end.

Stella L. Woo  
Primary Examiner  
Art Unit 2614